DETAILED ACTION

Information Disclosure Statement

The Information Disclosure Statement filed 12 May 2008 is made of record.

Response to Arguments

The Examiner appreciates the Supplemental Amendment filed 13 August 2008 that clarifies and resolves the USC 112 rejection issues with independent claim 78 and respective dependent claims. However, with further search, the broad language of claim 78 admits a combination of prior art to teach wearable wireless audio interface comprising an electronic audio device being operative to communicate with a source device for communicating with a satellite radio provider. Consequently, this is addressed in the Final Office action to follow.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 78-82, 87-93, 95 and 96 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swab et al. (US 6,769,767) in view of Mattisson et al. (US 6,975,667) and Jesiek (US 6,010,216).

As to claims 78 and 79, Swab teaches a wearable wireless audio interface comprising:

an eyeglass configured to support at least one lens in a field of view of a wearer, the eyeglass comprising a frame and first and second ear stems attached to the frame, the eyeglass being configured to be worn on the wearer's head (figures 1, 2a, 5 and 8, column 3, line 66 to column 4, line 63, eyewear (12)),

an electronic audio device being operative to communicate with a source device for communicating with a *radio station* (column 4, lines 3-58 and column 5, line 56 to column 6, line 22, eyewear includes a Bluetooth transceiver mounted on one of the temples for communication with any other devices such as a laptop, PDA, mobile phone, CD player, GPS, heart rate monitor, MP3 audio player or radio),

at least one speaker supported by at least one of the first and second ear stems (figure 3, column 5, lines 56-65, left speaker (56) molded into a temple) and

Swab teaches an electronic audio device being operative to communicate with a plurality of source devices including various audio playing devices, telephone conferencing equipment, heart rate monitor, mobile telephone, radio or GPS, column 5, line 56 to column 6, line 11, but does not specifically teach a source device for communicating with a satellite radio provider.

Mattisson teaches a dual band communication apparatus in the form of a Globalstar satellite terminal, figure 1, column 3, lines 60-65. Mattisson discloses the satellite terminal forms a wireless link between a satellite and mobile telephone or

dedicated handset utilizing a Bluetooth connection to the mobile telephone, figures 1 and 2, column 3, line 60 to column 4, line 52.

Since Swab teaches a wearable audio apparatus for Bluetooth connection to a variety of audio source devices, it would have been obvious to one of ordinary skill in the art at the time of the invention to recognize the application of the satellite terminal of Mattisson as the source device of Swab for a link to a satellite radio provider.

Swab of Swab modified teaches a Bluetooth module molded into the ear stem in communication with the electronic audio device, figure 2a, column 5, lines 48-55, but is silent as to an antenna extending along at least one of the frame, the first ear stem, and the second ear stem of the eyeglass.

Jesiek teaches eyeglasses including a radio transceiver, power supply and antenna (11) provided within an ear stem, figures 1, 5 and 6, column 2, lines 32-66. Jesiek discloses the antenna (11) passes through hollow eyeglass frames (14, 17 and 10) to connect to the transceiver circuit board (7) where the length of the antenna depends on the frequency of the operating transceiver, column 2, lines 49-53.

It would have been obvious to one of ordinary skill in the art at the time of the invention to recognize the Bluetooth transceiver of Swab modified would utilize the antenna/ ear stem combination of Jesiek for efficient communication with the remote source device.

As to claims 79 and 80, Jesiek of Swab modified teaches wherein the antenna extends along at a distal portion of least one of the first and second ear stems figures 1,

5 and 6, column 2, lines 49-53, the antenna (11) passes through hollow eyeglass frames (14, 17 and 10) to connect to the transceiver circuit board (7) where the length of the antenna depends on the frequency of the operating transceiver).

As to claim 82 with respect to claim 78, Jesiek of Swab modified teaches wherein the antenna is insulated (figure 1, column 2, lines 49-53, the antenna is within the eyeglass frame).

As to claim 87 with respect to claim 78, Swab teaches the wearable wireless audio interface further comprising a source device, the antenna being in communication with the satellite radio provider via wherein the electronic audio device comprises a transceiver configured to transmit signals to the source device (column 4, lines 12-58, Bluetooth transceiver (18) to connect the eyewear to one or more other devices).

As to claim 88 with respect to claim 78, Swab teaches the source device is carried by the wearer (column 6, lines 56 to column 6, line 22, eyewear is connected to various portable and hand held audio devices commonly carried by hand or in a pocket).

As to claim 89 with respect to claim 88, Swab teaches wherein the source device is integrated into clothing of the wearer (column 6, lines 56 to column 6, line 22,

eyewear is connected to various portable and hand held audio devices commonly carried by hand or in a pocket).

As to claim 90 with respect to claim 78, Swab teaches the electronic audio device communicates with a single source device (column 4, lines 31-58).

As to claims 91 and 95 with respect to claim 78, Mattisson of Swab modified teaches wherein the source device is stationary (figure 1, column 3, lines 60 to column 4, line 6, the satellite terminal is an example of a portable source device that may be stationary).

As to claim 92 with respect to claim 78, Swab teaches the source device is one of an audio recording device, a palm top computer, a laptop computer, a cell phone a tape player, a CD player, a DVD player, and an MP3 player (column 6, lines 18-48).

As to claim 93 with respect to claim 78, Mattisson of Swab modified teaches wherein the interface electronic device is further configured to communicate with a wireless internet service provider (figure 1, column 2, lines 30-46, Internet service through the Globalstar system).

As to claim 96 with respect to claim 87, Swab teaches a microphone supported by the eyeglass (figure 3, column 5, lines 56-65, microphone (54) for use with a mobile phone etc.).

Claim 94 is rejected under 35 U.S.C. 103(a) as being unpatentable over Swab et al. (US 6,769,767), Mattisson et al. (US 6,975,667), Jesiek (US 6,010,216) in view of Vogt et al. (US 5,606,743).

As to claim 94 with respect to claim 78, Swab modified does not teach the audio interface further comprising a heads-up display.

Vogt teaches radio eyewear including a radio receiver, speakers, antenna and power supply which are coupled to or integrally formed with a lens supporting framework, figure 13, column 8, lines 5-30. Vogt discloses a liquid crystal display (126) is coupled to the receiver circuitry and unobtrusively secured to the side of the normal line of sight atone of the lenses or inner frame surface, column 8, lines 17-22.

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the display of Vogt to the eyewear of Swab modified to facilitate tuning/ control without removal of the eyewear.

Allowable Subject Matter

Claims 42-45, 47-57, 63, 71, 72, 74, 75, 77 and 84-86 are allowed.

Allowable Subject Matter

Claim 81 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BLANE J. JACKSON whose telephone number is (571)272-7890. The examiner can normally be reached on Monday through Thursday, 8:30 AM-7:00 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Blane J Jackson/
Examiner, Art Unit 2618